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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,830	02/02/2004	Gregg Henderson	01A1.1D Henderson	9064

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PATENT DEPARTMENT
TAYLOR, PORTER, BROOKS & PHILLIPS, L.L.P
P.O. BOX 2471
BATON ROUGE, LA 70821-2471

EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT	PAPER NUMBER
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1616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/769,830	Applicant(s) HENDERSON ET AL.	
	Examiner Alton N. Pryor	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 25,26,28,31-33,47,51,52,54,75,76 and 78-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 25,26,28,31-33,47,51,52,54,75,76 and 79-81 is/are rejected.
- 7) ☐ Claim(s) 78 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/2/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- I. Finality of office action dated 9/19/05 is withdrawn in light of new art rejection cited below.
- II. Applicant's arguments, see paper, filed 1/9/06, with respect to the rejection(s) of claim(s) 47,48,54,76,78 under 35 USC 102(e) and claims 49 and 50 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of art below.
 - A. Rejection of claims 47,48,54,76, and 78 under 35 USC 102(e) as being anticipated by Dolan will not be maintained. Nootkatone has been deleted from claim 47. Claim 48 has been cancelled. Claim 76 will be rejected in this paper. See below. Claim 78 will be objected to in this paper. See below. Claims 47, 54 will be allowed in this paper. See below.
 - B. Rejection of claims 49 and 50 under 35 USC 103(a) as being obvious over Dolan will not be maintained. Claims 49 and 50 have been cancelled.
 - C. Claim Objection Allowable Subject Matter. Claims 51 and 52 depend from allowed claim 47. Therefore, claims 51 and 52 are now allowable. Claims 25,26,28,31-33,75,79-81 remains allowable as indicated in action dated 9/19/05.
 - D. New 35 USC 102(b) Rejection

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 76 is rejected under 35 U.S.C. 102(b) as being anticipated by Maistrello et al.

(Effects of nootkatone and a borate compound on Formosan subterranean termite and its symbiont protozoa, J. of Entomological Science, 7/2001, 36(3), 229-6). Maistrello teaches method of treating wood (cellulose material) with nootkatone. It is inherent that the Maistrello's nootkatone treated wood would repel ticks since Maistrello's invention and instant invention teach the same active step, i.e., applying nootkatone to a cellulose material (wood).

E. Claim Objection / Allowable Subject Matter

Claim 78 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not teach or suggest the instant invention comprising one or more compounds selected from alpha cedrene, zizanol, and bicyclovetivenol. Also, "nootkatone" is already recited in claim 76 and therefore should be deleted from claim 78. Claims 25,26,28,31-33,47,51,52,54,75,79-81 are allowable. The prior art does not teach or suggest the instant invention comprising treating materials with zizanol and bicyclovetivenol to repel ticks or cockroaches from the material. The prior art does not teach or suggest the instant invention comprising treating materials with alpha-cedrene to repel cockroaches from the material.

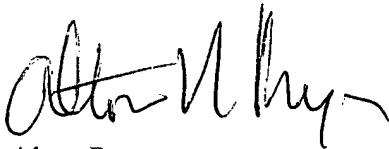
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Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alton N. Pryor whose telephone number is 571-272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alton Pryor
Primary Examiner
AU 1616